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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/675,653
Filing Date: September 30, 2003
Appellant(s): KARAOGUZ ET AL.

Ognyan I. Beremski
Reg. No. 51,458
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/14/08 appealing from the Office action mailed 1/23/08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

The objection to claim 2 has been withdrawn.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relyed Upon

Kikinis	US 5,644,714	Jul. 1, 1997
Schwartz	US 5,913,032	Jun. 15, 1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-7, 9, 11-17, 19, 21-27, 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Kikinis (US 5,644,714).

In regards to claims 1, 11, and 21 Kikinis discloses, a method, a machine-readable storage having stored thereon, a computer program having at least one code section for communicating information in a distributed media network, the at least one code section being executable by a machine for communication of information in a distributed media network, a system for communication of information in a distributed media network, and a method comprising:

- a. detecting availability by at least one media processing system (Fig. 1A. #1) in the distributed media network (Fig. 1A), of one or more of newly available media, data and service within the distributed media network (Col. 5 line(s) 16-

- 20, teach the file server's (media processing system) control routine recognizing (detecting) that a new clipping has been loaded.);
- b. comparing by said at least one media processing system, said one or more of said newly available media, data and service with data in a media profile associated with said at least one media processing system (Fig. 2 #42 and Col. 5 line(s) 34-38, teach the file server comparing subscribers profiles to the newly loaded clippings, for identifying which subscriber has interest.); and
- c. requesting at least a portion of said one or more of said newly available media, data and service from the distributed media network based on said comparison by said at least one media processing system (Fig. 2 #52 and Col. 5 line(s) 55-57, teach the subscriber requesting a download of the new clipping, after receiving a notification based on their profile that it is available.).

In regards to claims 2, 12, and 22 Kikinis discloses, comprising receiving said requested at least a portion of said one or more of said newly available media, data and service by said at least one media processing system, if said one or more of said newly available media, data and service matches said data in said media profile associated with said at least one media processing system (Fig. 2 #42 and Col. 5 line(s) 34-38, teach the file server comparing subscribers profiles to the newly loaded clippings, for identifying which subscriber has interest. Then sending to the subscribers identified a notification. From the notification the subscriber is selecting to download. Therefore they are only receiving the new clipping if it matched their profile.).

In regards to claims 3, 13, and 23 Kikinis discloses, wherein said data in said media profile associated with said at least one media processing system is predefined (Col. 4 line(s) 17-20 and 57 -60, teach that the data from the profile is associated with at least one predefined file server (one media processing system).).

In regards to claims 4, 14, and 24 Kikinis discloses, dynamically updating data in said media profile associated with said at least one media processing system (Col. 4 line(s) 10-13, teaches the user (media) profile being dynamically updated that is associated with at least one media processing system.).

In regards to claims 5, 15, and 25 Kikinis discloses, polling at least one of a plurality of network components in the distributed media network for said one or more of said newly available media, data and service (Col. 4 line(s) 17-20, teaches the client can poll at least one of a plurality of network components for the new media from the distributed media network.).

In regards to claims 6, 16, and 26 Kikinis discloses, wherein said at least one of said plurality of network components (Fig. 1A and Col. 3 line(s) 22-33, teaches a plurality of network components.) comprises one or more of is a personal computer (Col. 3 line(s) 29-33, teaches that other architectures can be used therefore a personal computer is implied.), a server (Fig. 1A #5 and Col. 3 line(s) 24), a content provider (Fig. 1A #3 and Col. 2 line(s) 49-52, teaches the system having content providers (file servers).) and a media processing server (Col. 3 line(s) 56-62, teaches servers being media processing servers.).

In regards to claims 7, 17, and 27 Kikinis discloses, comprising receiving an indication by said at least one media processing system of said availability of said one or more of said newly available media, data and service within the distributed media network subscribing (Fig. 2 #42 and Col. 5 line(s) 34-38, teach the file server comparing subscribers profiles to the newly loaded clippings, for identifying which subscriber has interest. Then sending to the subscribers identified a notification.).

In regards to claims 9, 19, and 29 Kikinis discloses, initiating receiving of said one or more of said newly available media, data and service based on a user selection after said receiving of said indication (Col. 4 line(s) 14-24).

Claims 8 , 18, 10, 20, 28, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikinis (US 5,644,714) as applied to claims 1, 11, 21 above, and further in view of Schwartz et al. (US 5,913,032).

In regards to claims 8, 18, and 28 Kikinis do not teach, wherein said detecting comprises searching by said at least one media processing system of at least another media processing system in the distributed media network for said one or more of said newly available media, data and service.

In the same field of endeavor Schwartz et al. teach a publisher and subscriber system that allows users to share data objects among application processes. This is

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done by allowing the Object Exchange module to poll (search) for data, including new data that has been posted, at other systems (Col. 6 line(s) 36-40, Col. 11 line(s) 21-26).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kikinis video collection and distribution system with interested item notification and download on demand with Schwartz et al. teaching as discussed above to allow for the capability of allowing users to receive updates of items when changes or new items are available to allow all users to be updated in a timely manner.

In regards to claims 10, 20, and 30 Kikinis do not teach, wherein said detecting comprises polling at least another media processing system for said one or more of said newly available media, data and service within the distributed media network, and wherein said at least another media processing system is authorized for said polling by said at least one media processing system.

In the same field of endeavor Schwartz et al. teach a publisher and subscriber system that allows users to share data objects among application processes. This is done by allowing the Object Exchange module to poll for data, including new data that has been posted, at other systems (Col. 6 line(s) 36-40, Col. 11 line(s) 21-26). The polling frequency is setup by users, therefore the system has authorized for polling other systems (Col. 13 line(s) 18-24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kikinis video collection and distribution system

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with interested item notification and download on demand with Schwartz et al. teaching as discussed above to allow for the capability of allowing users to receive updates of items when changes or new items are available to allow all users to be updated in a timely manner.

(10) Response to Argument

Regarding claims 1, 11 and 21, Appellants argue that Kikinis does not disclose "comparing by said at least one media processing system, said one or more of said newly available media, data and service with data in a media profile associated with said at least one media processing system" (Br., 8). Appellants admit that Kikinis teaches a "profile" (Br., 9), but assert that the disclosed profile is not "associated with" the file servers (media processing systems) (Br., 10).

As an initial matter, it is noted that the claim language "associated with said at least one media processing system" is very broad. Almost anything related to the media processing system in any way is "associated with" it. In this case, Kikinis teaches that clients of the video service provide information to the file servers, including the details of their receiving equipment and topics of interest (col. 4, ll. 10-13). This information is subsequently used, *by the file servers*, to determine when to notify a particular subscriber of newly available media (col. 4, ll. 14-16; col. 5, ll. 34-36).

It is respectfully submitted that a profile, used by a file server to determine which subscribers are to be notified of a newly received media file, is a profile that is

"associated with" the file server. Such an interpretation falls well within the broadest reasonable interpretation of the phrase "associated with".

Regarding claims 2, 3, 12, 13, 22 and 23, Appellants arguments with respect to these claims (Br., 11-13) are substantially identical to those presented with respect to claim 1. For the reasons discussed above, the Examiner respectfully submits that the profile disclosed by Kikinis is "associated with" the media processing system (file server).

Regarding claims 4, 14 and 24, Appellants argue that Kikinis does not disclose "dynamically updating data in said media profile associated with said at least one media processing system" (Br., 13-14). The Examiner respectfully disagrees, since Kikinis discloses that each client specifies their topics of interest and receiving equipment at the time of subscription (col. 4, ll. 10-13). Since there are numerous clients served by Kikinis' system (fig. 1), each time a new subscriber joins, their subscription information is added to the media server's profile, dynamically updating it with the information needed to notify the new subscriber of new content.

Regarding claims 5, 15 and 25, Appellants argue that Kikinis does not disclose "polling at least one of a plurality of network components in the distributed media network for said one or more of newly available media, data and service" (Br., 15). The Examiner respectfully disagrees, since Kikinis discloses that clients monitor their service

"as often as they like" for newly available video (col. 4, ll. 17-20). Monitoring the service "as often as they like" requires that the clients control the monitoring frequency, which requires that the client poll for newly available content.

Furthermore, Kikinis also discloses that the clients can select clippings they wish to see, which will cause the video data to be sent to the client (col. 4, ll. 19-20). This requesting of a media item is also "polling ... for said newly available media".

Regarding claims 6, 7, 9, 16, 17, 19, 26, 27 and 29, Appellants present no substantive arguments, merely asserting that these claims are allowable "for the reasons stated above with regard to claims 1, 11 and 21". Therefore, these claims will not be further addressed by the Examiner.

Regarding claims 8, 18 and 28, Appellants argue that the combination of Kikinis and Schwartz fails to disclose "searching by said at least one media processing system or at least another media processing system in the distributed media network for said one or more of said newly available media" (Br., 17). As noted by Appellants (Br., 18), Schwartz teaches Object Exchange, which facilitates the exchange of shared data between users (col. 3, ll. 14-34; col. 6, ll. 36-40; col. 11, ll. 21-26).

While Appellants assert that Schwartz fails to disclose searching another media processing system (Br., 18-19), it is noted that the rejection is based on the combination of Kikinis and Schwartz. When considered in combination with Kikinis' sharing of media files by sending files at regular intervals (Kikinis: col. 3, l. 66 to col. 4, l. 5), the object

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exchange system of Schwartz would have suggested to one of ordinary skill in the art that would have been advantageous to allow the media servers to search other servers to locate newly available media, to provide an additional means for locating media and allowing servers to locate media files using specific criteria, rather than simply receiving a bulk delivery of all newly available media.

Appellants arguments attack the references individually, concentrating exclusively on Schwartz. However, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding claims 10, 20 and 30, Appellants arguments with respect to these claims (Br., 19-21) are substantially identical to those presented with respect to claims 8, 18 and 28. The Examiner respectfully requests that the rejection of claims 10, 20 and 30 be sustained for the reasons discussed above with respect to claims 8, 18 and 28.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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/Aaron Strange/
Examiner, Art Unit 2153

Conferees:

/Glenton B. Burgess/
Supervisory Patent Examiner, Art Unit 2153
/John Follansbee/
Supervisory Patent Examiner, Art Unit 2151